IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.21129 of 1995

Between:

1 K. Veeraiah s/o laxmaiah
r/o Bapujinagar, Kazipeta,
Warangal Dist.
2 Ch. kumaraswamy s/o Komaraiah
r/o Bapujinagar, Kazipeta,
Warangal Dist.
3 M.D.Vallimiya s/o Bashumiya
r/o Bapujinagar, Kazipeta,
Warangal Dist.
4 Smt. Shaheed w/o late Shabuddin
r/o Bapujinagar, Kazipeta,
Warangal Dist.
5 Md. Yakub s/o Imran Saheb
r/o Bapujinagar, Kazipeta,
Warangal Dist.
6 Md. Yakubee w/o late Lal Mohammed
r/o Bapujinagar, Kazipeta,
Warangal Dist.
7 N. krishnaswamy s/o Narayanaswamy
r/o Bapujinagar, Kazipeta,
Warangal Dist.
8 P. Mallesham s/o Yellaiah
r/o Bapujinagar, Kazipeta,
Warangal Dist.
9 B.Nandhya s/o Bikya
r/o Bapujinagar, Kazipeta,
Warangal Dist.

..... PETITIONERS

AND

1 The Divisional Railway Manager (Broad guage) South Central Railway
Secunderabad.
2 The Divisional Engineer, Co-ordination (Board guage) South

Central Railway, Secunderabad.
3 The Assistant Engineer (N) South Central Railway,
Kazipeta, Warangal Dist
4 Office of the Inspector of Works, Diesal-shed Branch, South Central
Railway, Kazipeta, Warangal Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, direction or order preferably in the nature of a Writ of Mandamus directing the respondents not to evict the petitioners from their houses situated in Bapuji Nagar, Kazipeta, Warangal Dist., and further direct the respondents not to dig drainage canal through Bapuji Nagar, Kazipeta, Warangal District.

Counsel for the Petitioners: MR.K.C.ANJANEYULU

Counsel for the Respondents: MR.R.S.MURTHY (ADD.CGSC)

The Court made the following:

ORDER:

The petitioners, who claim to be pattadars of the land in dispute, filed the present writ petition seeking to direct the respondents not to evict them from their houses situated in Bapuji Nagar, Kazipet, Warangal District and further to direct the respondents not to dig drainage canal through the said colony.

The case of the petitioners is that they are residents of Bapuji Nagar, Warangal Municipality. They claim that they were given pattas in the year 1982 by the Revenue authorities and they constructed small houses on the said lands, and are living therein by paying municipal taxes regularly. The grievance of the petitioners is that the authorities of the respondents-South Central Railway without giving any notice started digging open drainage canal through their colony to enable the drainage water to go out of the town limits, even though, enough space for construction of the said drainage canal along side the main road is available. It is their case that they submitted a representation to the 1st respondent on 13.03.1995 to stop the digging, in vain. Hence, the writ petition.

A counter-affidavit is filed by the respondents denying that the petitioners are the owners and patta holders of the land in dispute. It is stated that the land in dispute belongs to the respondents-South Central Railway and it is in absolute possession of Railways since its acquisition in the year 1972 under the provisions of the Land

Acquisition Act, 1894 by award dated 28.06.1979. Since the land belongs to South Central Railway, there is no necessity to give prior notice to the petitioners to carry out any work therein. Though the land belongs to the Railways, the petitioners were evicted from their houses, but minor encroachments made on Railway land only have been removed. It is further stated that the catchment area in and around Mettu Ramaswamy Hill and Diesel Colony, spread over more than ten acres, is contributing storm water during monsoon, which is getting collected in the low lying areas of Railway Diesel Colony, resulting in breeding of mosquitoes and other related problems arising due to stagnated water, thus, in the interest of public to eliminate pollution and to protect the environment and to keep the hygienity of residents of Diesel Colony, the Railway Administration has taken up the open drainage canal construction work in its land. It is further stated that the drainage line is running within the railway boundary only and formed part of 29 guntas of land in Survey No.1110 and the respondents never constructed any drainage canal beyond that 29 guntas of their land. The petitioners are making false allegations of encroachment and are in fact trying to encroach the Railway land.

Heard the learned counsel for the petitioners and learned Standing Counsel for the respondents.

Learned counsel for the petitioners submits that though the petitioners were given pattas and have constructed small houses and are living therein, the respondents-Railway authorities without giving any notice high-handedly started constructing open drainage canal through their colony. On the other hand, learned Standing Counsel for respondents submitted that the land in dispute belongs to South Central Railways and it is in absolute possession of Railways since its acquisition in the year 1972 under the provisions of the Land Acquisition Act by award dated 28.06.1979.

The petitioners did not produce any pattas or house tax receipts before this Court to substantiate their contention that the land belongs to them. While, it is the contention of the respondents that the land belongs to them, the same having been acquired under an award, and they are in possession of the same, and that they are laying the drainage line in the land belonging to them. Whether or not the land in questions belongs to the petitioners or the respondents, and whether the respondents are laying the drainage line in the land belonging to them or the petitioners, are disputed

questions of fact, which cannot be gone into by this Court in a petition under Article 226 of the Constitution of India.

The writ petition has no merit, and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J)

Date: 17.11.2004

Nsr/Tvk

To

1 The Divisional Railway Manager (Broad guage) South Central Railway Secunderabad.
2 The Divisional Engineer, Co-ordination (Board guage) South

Central Railway, Secunderabad.
3 The Assistant Engineer (N) South Central Railway, Kazipeta, Warangal Dist
4 Office of the Inspector of Works, Diesal-shed Branch, South Central

Railway, Kazipeta, Warangal Dist.

5 Two CD copies.